

REMARKS

The above amendments to the above-captioned application along with the following remarks are being submitted as a supplement to the response filed November 28, 2006, in connection with the Official Action dated August 28, 2006. Further, this response is being submitted in conjunction with an RCE which is being filed concurrently herewith. In view of the above amendments and the following remarks, the Examiner is respectfully requested to give due consideration to this application, to indicate the allowability of the claims, and to pass this case to issue.

Applicants again thank the Examiner and the SPE for their consideration in the telephone interview of November 30, 2006 with Applicants' undersigned representative.

Status of the Claims

Claims 10-11 and 13-14 are under consideration in this application. Claims 121 and 15 are canceled without prejudice or disclaimer, while claims 10-11 and 13-14 are being amended, as set forth in the above marked-up presentation of the claim amendments, in order to more particularly define and distinctly claim applicant's invention. The claims are being amended to incorporate the features of claims 12 and 15 correspondingly, and to correct formal errors and/or to better recite or describe the features of the present invention as claimed. All the amendments to the claims are supported by the specification. Applicant hereby submits that no new matter is being introduced into the application through the submission of this response.

Formality Rejection

Claims 10-15 were rejected under 35 U.S.C. §112, first paragraph, for reciting what the Examiner alleges to be new matter. As indicated, the claims are being amended as required by the Examiner in accordance with the Examiner's suggestion discussed during the telephone interview on November 30, 2006. As amended, Applicants will submit that the claims are fully supported in the disclosure of the invention, including but not limited to page 10, line 19 to page 10, line 11; and page 15, lines 3-10, wherein "[s]ince mass production of oocytes having identical condition for injection of the sample can be possible by using the apparatus for sample injection off the present invention, the amphibian oocytes can be used for screening of the ligand or antigen reacting with receptor or antibody. The screening can

be performed by using plurality of oocytes, in which sample such as gene is injected under substantially equal condition and protein or other substances is expressed, and comparing the result of reactions of oocytes with [different] ligands.” The above recitation explicitly and implicitly discloses that the present invention includes among its features and advantages the fact that the injection of the sample (i.e., the mRNA into the cytoplasm) is done to achieve identical conditions among the plurality of oocytes being prepared, including identical injection depths (see page 9, line 9 to page 10, line 9), and identical injection area (see page 10, line 19 to page 11, line 11).

Also, the Examiner rejected claims 10-15 under 35 U.S.C. §112, second paragraph, as being indefinite, and specifically for language that was found to be indefinite and confusing. As outlined above, the claims are being amended to correct formal errors and/or to better recite or describe the features of the present invention as claimed in accordance with the Examiner’s requirements.

Accordingly, the withdrawal of the outstanding informality rejections is in order, and is therefore respectfully solicited.

Prior Art Rejections

The Examiner rejected claims 10-15 under 35 U.S.C. §102(b) as being anticipated by Brown (US Patent No. 5,688,938). Applicants have reviewed this rejection and hereby respectfully traverse.

The present invention as recited in claim 10 is directed to a plurality of amphibian oocytes wherein relative to a vertical axis and an animal hemisphere of each amphibian oocyte being positioned in an upward direction, each of said amphibian oocytes has mRNA positioned in a cytoplasm thereof at a depth relative to the vertical axis in the range of 0.02-0.1 mm from a top surface of each of said amphibian oocytes, wherein said mRNA is injected into the cytoplasm of each of said plurality of amphibian oocytes.

As recited in claim 13, the present invention is directed to a method for screening a sample, comprising the steps of: injecting, relative to a vertical axis and an animal hemisphere of each of a plurality of amphibian oocytes being positioned in an upward direction, mRNA which encodes a protein for initiating an interaction with said sample, into a cytoplasm of each of said plurality of amphibian oocytes such that the mRNA in each of said plurality of amphibian oocytes is positioned at a depth relative to the vertical axis in the range of 0.02-0.1 mm from a top surface of each of the oocytes; maintaining a membrane potential

on each of the oocytes injected with the mRNA; adding a solution to each of the oocytes maintained with the membrane potential; and measuring an electric response of each of the oocytes after the step of adding thereby discriminating whether the solution containing said sample based on the electric response.

In contrast to the present invention, Brown merely injects mRNA into the vegetal pole (col. 51, lines 28-29) of the oocytes, wherein a 35 mm culture dish with a patch of nylon stocking fixed to the bottom is used to secure the oocytes. This reference does not disclose, teach or suggest any structure or process for obtaining a plurality of amphibian oocytes into which mRNA is injected into each oocyte at identical depths as recited in the claims.

As such, Brown fails to teach or suggest each and every feature of the present invention as recited in at least independent claims 10 and 13. As such, the present invention as now claimed is distinguishable and thereby allowable over the prior art cited in the Office Action. The withdrawal of the outstanding prior art rejections is in order, and is respectfully solicited.

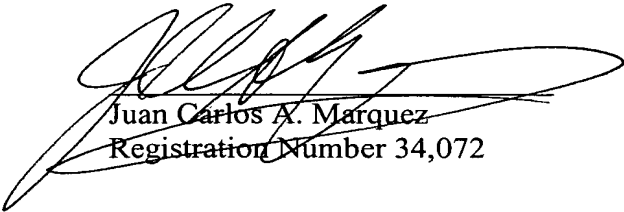
Conclusion

In view of all the above, clear and distinct differences as discussed exist between the present invention as now claimed and the prior art reference upon which the rejections in the Office Action rely. Applicants respectfully contend that the prior art references cannot anticipate the present invention or render the present invention obvious. Rather, the present invention as a whole is distinguishable, and thereby allowable over the prior art.

Favorable reconsideration of this application is respectfully solicited. Should there be any outstanding issues requiring discussion that would further the prosecution and allowance of the above-captioned application, the Examiner is invited to contact the Applicant's undersigned representative at the address and telephone number indicated below.

Respectfully submitted,

Stanley P. Fisher
Registration Number 24,344



Juan Carlos A. Marquez
Registration Number 34,072

REED SMITH LLP
3110 Fairview Park Drive, Suite 1400
Falls Church, Virginia 22042
(703) 641-4200

December 27, 2006
SPF/JCM/